

Chapter 18c

Financial Responsibility of Motorboat Owners and Operators Act

Part 1

General Provisions

73-18c-101 Title.

This chapter is known as the "Financial Responsibility of Motorboat Owners and Operators Act."

Amended by Chapter 211, 2006 General Session

73-18c-102 Definitions.

As used in this chapter:

- (1) "Airboat" means a vessel propelled by air pressure caused by an airplane type propeller mounted above the stern and driven by an internal combustion engine.
- (2) "Board" means the Board of Parks and Recreation.
- (3) "Division" means the Division of Parks and Recreation.
- (4) "Judgment" means any judgment that is final by:
 - (a) expiration without appeal of the time within which an appeal might have been perfected; or
 - (b) final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action for damages:
 - (i) arising out of the ownership, maintenance, or use of any personal watercraft, including damages for care and loss of services because of bodily injury to or death of any person, or because of injury to or destruction of property including the loss of use of the property; or
 - (ii) on a settlement agreement.
- (5)
 - (a) "Motorboat" has the same meaning as defined in Section 73-18-2.
 - (b) "Motorboat" includes personal watercraft regardless of the manufacturer listed horsepower.
 - (c) "Motorboat" does not include:
 - (i) a boat with a manufacturer listed horsepower of 50 horsepower or less; or
 - (ii) an airboat.
- (6) "Nonresident" means any person who is not a resident of Utah.
- (7) "Operator" means the person who is in control of a motorboat while it is in use.
- (8)
 - (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a motorboat.
 - (b) "Owner" includes a person entitled to the use or possession of a motorboat subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.
 - (c) "Owner" does not include a lessee under a lease not intended as security.
- (9) "Owner's or operator's security," "owner's security," or "operator's security" means any of the following:
 - (a) an insurance policy or combination of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which is issued by an insurer authorized to do business in Utah;
 - (b) a surety bond issued by an insurer authorized to do a surety business in Utah in which the surety is subject to the minimum coverage limits and other requirements of policies

- conforming to Sections 31A-22-1502 and 31A-22-1503, which names the division as a creditor under the bond for the use of persons entitled to the proceeds of the bond;
- (c) a deposit with the state treasurer of cash or securities complying with Section 73-18c-305;
 - (d) a certificate of self-funded coverage issued under Section 73-18c-306; or
 - (e) a policy conforming to Sections 31A-22-1502 and 31A-22-1503 issued by the Risk Management Fund created in Section 63A-4-201.
- (10) "Personal watercraft" has the same meaning as provided in Section 73-18-2.
- (11) "Registration" means the issuance of the registration cards and decals issued under the laws of Utah pertaining to the registration of motorboats.
- (12) "Registration materials" means the evidences of motorboat registration, including all registration cards and decals.
- (13) "Self-insurance" has the same meaning as provided in Section 31A-1-301.
- (14) "Waters of the state" means any waters within the territorial limits of this state.

Amended by Chapter 113, 2007 General Session

73-18c-103 Liability not limited to face amount of owner's security.

- (1) If a person maintains owner's security under this chapter, it does not limit the person's liability to the face amount of the owner's security.
- (2) Nothing in this chapter prevents the plaintiff in any action at law from relying for relief upon other processes provided by law.

Enacted by Chapter 348, 1997 General Session

Part 2 Administration

73-18c-201 Division to administer and enforce chapter -- Board may adopt rules.

- (1) The division shall administer and enforce the provisions of this chapter.
- (2) The board may adopt rules as necessary for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Amended by Chapter 382, 2008 General Session

Part 3 Owner's or Operator's Security Requirement

73-18c-301 Requirement of owner's or operator's security.

- (1) Each resident owner of a motorboat shall maintain owner's or operator's security in effect at any time that the motorboat is operated on waters of the state.
- (2) Each nonresident owner of a motorboat that has been physically present in this state for 90 or fewer days during the preceding 365 days shall maintain the type and amount of owner's or operator's security required in his or her place of residence at any time the motorboat is operated on waters of the state.

- (3) Each nonresident owner of a motorboat that has been physically present in this state more than 90 days during the preceding 365 days shall thereafter maintain owner's or operator's security in effect at any time the motorboat is operated on waters of the state.
- (4) The state and each of its political subdivisions and their respective departments, institutions, or agencies shall maintain owner's or operator's security in effect at any time their personal watercraft are operated on waters of the state.
- (5) Any other state is considered a nonresident owner of its motorboat and is subject to Subsection (2) or (3).
- (6) The United States, any political subdivision of it, or any of its agencies may maintain owner's or operator's security in effect for their motorboats.

Amended by Chapter 211, 2006 General Session

73-18c-302 Operating motorboats without owner's or operator's security -- Penalty.

- (1) Any owner of a motorboat on which owner's or operator's security is required under Section 73-18c-301, who operates the motorboat or permits it to be operated on waters of the state without owner's security being in effect is guilty of a class C misdemeanor.
- (2) Any other person who operates a motorboat upon waters of the state with the knowledge that the owner does not have owner's security in effect for the motorboat is also guilty of a class C misdemeanor, unless that person has in effect owner's or operator's security on a Utah-registered motorboat or its equivalent that covers the operation, by him or her, of the motorboat in question.

Amended by Chapter 412, 2015 General Session

73-18c-303 Condition to obtaining registration.

The owner of a motorboat required to maintain owner's security under Section 73-18c-301 shall be required to swear or affirm, in writing, that he or she has owner's security in effect at the time of registering the motorboat.

Amended by Chapter 211, 2006 General Session

73-18c-304 Evidence of owner's or operator's security to be carried when operating motorboat -- Defense -- Penalties.

- (1)
 - (a)
 - (i) Except as provided in Subsection (1)(a)(ii), a person operating a motorboat shall:
 - (A) have in the person's immediate possession evidence of owner's or operator's security for the motorboat the person is operating; and
 - (B) display it upon demand of a peace officer.
 - (ii) A person operating a government-owned or government-leased motorboat is exempt from the requirements of Subsection (1)(a)(i).
 - (b) Evidence of owner's or operator's security includes any one of the following:
 - (i) the operator's:
 - (A) insurance policy;
 - (B) binder notice;
 - (C) renewal notice; or
 - (D) card issued by an insurance company as evidence of insurance;

- (ii) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;
 - (iii) a certificate of the state treasurer issued under Section 73-18c-305; or
 - (iv) a certificate of self-funded coverage issued under Section 73-18c-306.
- (2) It is an affirmative defense to a charge under this section that the person had owner's or operator's security in effect for the motorboat the person was operating at the time of the person's citation or arrest.
- (3)
- (a) A letter from an insurance producer or company verifying that the person had the required liability insurance coverage on the date specified is considered proof of owner's or operator's security for purposes of Subsection (2).
 - (b) The court considering a citation issued under this section shall allow the letter under Subsection (3)(a) and a copy of the citation to be faxed or mailed to the clerk of the court to satisfy Subsection (2).
- (4) A violation of this section is a class C misdemeanor.
- (5) If a person is convicted of a violation of this section and if the person is the owner of a motorboat, the court shall:
- (a) require the person to surrender the person's registration materials to the court; and
 - (b) forward the registration materials, together with a copy of the conviction, to the division.
- (6)
- (a) Upon receiving notification from a court of a conviction for a violation of this section, the division shall revoke the person's motorboat registration.
 - (b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

Amended by Chapter 412, 2015 General Session

73-18c-305 State treasurer's certificate to satisfy owner's or operator's security requirement.

- (1) A certificate of the state treasurer that conforms to this section satisfies the owner's or operator's security requirement of Section 73-18c-301.
- (2) The certificate of the state treasurer shall certify that the person named in it has deposited in trust with the state treasurer cash in an amount equal to twice the single limit under Subsection 31A-22-1503(2) or securities with a fair market value of a similar amount, which securities are legal investments for insurers under Section 31A-18-105. The state treasurer may not accept a deposit and issue a certificate for it, unless the deposit is accompanied by evidence that there are no unsatisfied liens of any character on the assets deposited.
- (3) The deposit shall be held by the state treasurer in trust to satisfy any execution on a judgment that would be paid under an insurance policy conforming to Sections 31A-22-1502 and 31A-22-1503 had the treasurer issued such a policy.
- (4) Except as provided under Subsection (3), assets deposited with the treasurer under this chapter are exempt from attachment or execution.

Enacted by Chapter 348, 1997 General Session

73-18c-306 Certificate of self-funded coverage as proof of owner's or operator's security.

- (1) The division may, upon the application of any person, issue a certificate of self-funded coverage when it is satisfied that the person has:
 - (a) more than 24 motorboats; and

- (b) on deposit, in a form approved by the division, cash or securities in an amount of \$200,000 plus \$100 for each motorboat up to and including 1,000 motorboats and \$50 for each motorboat over 1,000 motorboats.
- (2) Persons holding a certificate of self-funded coverage under this chapter shall pay benefits to persons injured from the self-funded person's operation, maintenance, and use of motorboats as would an insurer issuing a policy to the self-funded person containing the coverages under Sections 31A-22-1502 and 31A-22-1503.
- (3) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the division may, upon reasonable grounds, cancel the certificate. Failure to pay any judgment up to the limit under Subsection 31A-22-1503(2) within 30 days after the judgment is final is a reasonable ground to cancel the certificate.
- (4) Any government entity with self-funded coverage for government-owned motorboats under Title 63G, Chapter 7, Governmental Immunity Act of Utah, meets the requirements of this section.

Amended by Chapter 382, 2008 General Session

73-18c-307 Claims adjustment by persons with owner's or operator's security other than insurance.

- (1) An owner or operator of a motorboat who maintains owner's or operator's security by a means other than an insurance policy under Section 73-18c-102, shall refer all bodily injury claims against the owner's or operator's security to an independent adjuster licensed under Title 31A, Chapter 26, Insurance Adjusters, or to an attorney.
- (2) Unless otherwise provided by contract, any motorboat claim adjustment expense incurred by a person maintaining owner's or operator's security by a means other than an insurance policy under Section 73-18c-102, shall be paid by the person who maintains this type of owner's or operator's security.
- (3) Owners and operators of motorboats maintaining owner's or operator's security by a means other than an insurance policy under Section 73-18c-102 are subject to the claim adjustment provisions of Title 31A, Chapter 26, Part 3, Claim Practices, in connection with claims against persons which arise out of the ownership, maintenance, or use of a motorboat.

Amended by Chapter 211, 2006 General Session

73-18c-308 Providing false evidence of owner's or operator's security -- Penalty.

- (1) A person who provides evidence of owner's or operator's security to a peace officer under Section 73-18-13.5 or 73-18c-304 knowing or having reason to believe that the evidence of owner's or operator's security is false or that it is evidence of owner's or operator's security that is not in effect is guilty of a class B misdemeanor.
- (2) A person is guilty of a class A misdemeanor if the person:
 - (a) forges or, without authority, signs any evidence of proof of owner's or operator's security; or
 - (b) falsely swears or affirms when obtaining a registration under Section 73-18c-303.

Enacted by Chapter 348, 1997 General Session